

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Inbound Competitive Multi Service Agreements
With Foreign Postal Operators
Hongkong Post—United States Postal Service
Bilateral Agreement (MC2010-34)
Negotiated Service Agreement

Docket No. CP2015-91

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING ADDITIONAL
INBOUND COMPETITIVE MULTI-SERVICE AGREEMENT
WITH FOREIGN POSTAL OPERATORS 1
NEGOTIATED SERVICE AGREEMENT
(WITH HONGKONG POST)

(July 9, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2557.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of its entry into an additional bilateral agreement for inbound competitive services with Hongkong Post.²

The Postal Service seeks to include the inbound portion of a bilateral agreement with Hongkong Post (Hongkong Post 2015 Agreement) within the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 (Competitive Multi-Service Agreements) product. Notice at 1. The Hongkong Post 2015 Agreement establishes prices not of general applicability for the delivery of inbound Air Parcel Post and Express Mail Service (EMS) in the United States. *Id.* at 4.

¹ PRC Order No. 2557, Notice and Order Concerning Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, July 1, 2015.

² Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator, June 30, 2015 (Notice).

In Order No. 546, the Commission approved the addition of the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product to the competitive product list, and included within that product an agreement with Koninklijke TNT Post BV and TNT Post PakketSERVICE Benelux BV (TNT Agreement).³ In Order No. 840, the Commission “accepted the Postal Service’s designation of the TNT Agreement ‘as the baseline agreement for functional equivalency analysis of the Inbound Competitive Multi-Service Agreement[s] with Foreign Postal Operators 1 product.’”⁴ Subsequently, the Commission determined that bilateral agreements with Hongkong Post, China Post, Royal PostNL BV, Norway Post, Deutsche Post, the Australian Postal Corporation and the Canada Post Corporation should be included within the Competitive Multi-Service Agreements product.⁵

The Hongkong Post 2015 Agreement is the successor to an existing bilateral agreement with Hongkong Post (Hongkong Post 2014 Agreement).⁶ The Hongkong Post 2014 Agreement expired June 30, 2015.⁷ The Postal Service states that the proposed Effective Date for the Hongkong Post 2015 Agreement is July 1, 2015, or as soon thereafter as possible. Notice at 3. The Hongkong Post 2015 Agreement is to remain in effect for one year after the Effective Date, unless terminated sooner. *Id.*, Attachment 1 at 7.

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, and the Hongkong Post 2015 Agreement and supporting financial model filed under seal with

³ Order No. 546, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, Docket Nos. MC2010-34 and CP2010-95, September 29, 2010.

⁴ Notice at 2, *citing* Order No. 840, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, Docket No. CP2011-69, September 7, 2011, at 5.

⁵ <http://www.prc.gov/prc-pages/library/mail-classification-schedule/default.aspx?view=mail>, (Draft) Mail Classification Schedule, June 4, 2015, Section 2515.10.5, for a list of competitive multi-service agreements currently included in the product.

⁶ Notice at 3, *citing* Order No. 1948, Order Approving Addition of Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement (with Hongkong Post), Docket No. CP2014-21, January 8, 2014.

⁷ Order No. 2359, Order Approving Modification Two to Existing Agreement, Docket No. CP2014-21, February 18, 2015.

the Notice. The Public Representative also reviewed the financial model for the TNT Agreement filed under seal in Docket Nos. MC2010-34 and CP2010-95. Based upon that review, the Public Representative concludes that the Hongkong Post 2015 Agreement is functionally equivalent to the TNT Agreement. Moreover, the negotiated rates for inbound items in the Hongkong Post 2015 Agreement are likely to generate sufficient revenue to cover attributable costs.

Functional Equivalence. The Postal Service states that the Hongkong Post 2015 Agreement is functionally equivalent to the baseline agreement because the terms of the agreements remain similar in scope and purpose, and share most terms and clauses in common. Notice at 2. Moreover, the Postal Service asserts that the Hongkong Post 2015 Agreement is substantially similar to the inbound portion of the TNT Agreement in terms of products and cost characteristics. *Id.* at 5. In this regard, the Postal Service reports that the Hongkong Post 2015 Agreement establishes prices for the delivery of inbound Air Parcel Post and EMS, the same competitive shipping services as in the TNT Agreement. *Id.* at 4.

A review of the supporting financial models for the Hongkong Post 2015 Agreement and the TNT Agreement reveals that the Hongkong Post 2015 Agreement and the TNT Agreement share similar cost and market characteristics. In terms of market characteristics, both agreements establish negotiated prices inbound Air Parcel Post and EMS.⁸ In terms of cost characteristics, both financial models develop unit costs for mail processing, delivery, domestic transportation, and domestic other costs associated with inbound Air Parcel Post and EMS.⁹ The Public Representative therefore concludes that the Hongkong Post 2015 Agreement is functionally equivalent to the TNT Agreement.

⁸ Compare the Service Descriptions and Stream codes in the TNT Agreement financial model, Excel file (Non-Public) Netherlands_Comp_IB_2010.08.09, worksheet tab 08_Pieces-Wgt & TDues_Rates, columns B and C to the Service Descriptions and Stream codes in the Hongkong Post 2015 Agreement financial model, Excel file (Non-Public) HongKong_Comp_IB_2015FINAL, worksheet tab 08_Pieces-Wgt & TDues_Rates, columns B and C.

⁹ Compare the cost characteristics in the TNT Agreement financial model, Excel file (Non-Public) Netherlands_Comp_IB_2010.08.09, worksheet tab 05_Product_Unit_Cost_Inputs to the cost characteristics in the Hongkong Post 2015 Agreement financial model, Excel file (Non-Public) HongKong_Comp_IB_2015FINAL, worksheet tab 05_Product_Unit_Cost_Inputs.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's negotiated prices for competitive products must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

The Postal Service's financial model does not directly address whether the addition of the Hongkong Post 2015 Agreement to the Competitive Multi-Service Agreements product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated prices in the Hongkong Post 2015 Agreement will generate sufficient revenues to cover its attributable costs. The Public Representative notes that in the FY 2014 Annual Compliance Determination (ACD) Report, the Commission determined that the Competitive Multi-Service Agreements product as a whole covered costs. 2014 ACD at 78. Therefore, the addition of the Hongkong Post 2015 Agreement to the Competitive Multi-Service Agreements product will not cause the product's cost coverage to fall below 100 percent. As a result, the addition of the Hongkong Post 2015 Agreement to the Competitive Multi-Service Agreements product should allow the product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Finally, the addition of the Hongkong Post 2015 Agreement to the Competitive Multi-Service Agreements product should improve the likelihood that competitive products as a whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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